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Red Tape Perils Big U.S. Case

Who Can OK Wiretap Use?

By Jared Stout

WASHINGTON — (NNS) — Federal prosecution of 150 persons, including 16 Detroit policemen, on gambling charges may be lost because Attorney General John Mitchell failed to authorize wiretaps used in the case.

The arrests were announced May 6 after more than 400 FBI agents, assisted by local police, began arresting persons in 37 Michigan cities.

The operation was one of the largest ever in terms of the number of arrests.

The threat to successful prosecution was confirmed Friday by department spokesmen who were asked about the impact of an earlier ruling by the U.S. Fifth circuit Court of Appeals in New Orleans.

The ruling freed six members of a narcotics gang because wiretaps in their case were authorized by a Mitchell aide, Sol Lindenbaum — but federal law requires the Attorney General's personal approval.

Only One

Department spokesmen said Lindenbaum had authorized extension of wiretap authority used in the Detroit case, adding it appeared to be the only one where the Fifth Circuit Court ruling would have an adverse effect.

One spokesman said the department had not yet decided whether the New Orleans ruling would be appealed.

Disclosure of the Lindenbaum authorization was the first public sign of any variation from Mitchell's repeated assurances to Congress that he personally approves all wiretaps.

But the department spokesman explained that Lindenbaum "acted under a delegation of authority . . . when the Attorney General was out of town or otherwise unavailable and not within reach by telephone."

'No Authority'

Delegation of wiretap approval was limited, however, the spokesman said, to cases where wiretap authority was sought under Title III of the Omnibus Crime Control Act, which established the need for the Attorney General's and judicial approval of the tap.

"He (Lindenbaum) had no authority to act for the Attorney General in national security cases and no one else had the authority, other than the Attorney General" or Lindenbaum in other types of cases, the spokesman said.

Lindenbaum's job is "executive assistant to the Attorney General." He is a career Justice Department lawyer who has served Attorneys General Robert F. Kennedy, Nicholas Katzenbach, and Ramsey Clark.